IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO. 16510 of 2004

Between:

Syed Khaleel Ahmed, S/o Syed Mustafa,
R/o H.No.5-7-68/51, Manyamchalka, Nalgonda District

... PETITIONER

AND

1 The Regional Manager, APSRTC Nalgonda Region, Nalgonda District
2 The Depot Manager, APSRTC Devarakonda Bus Depot, Nalgonda District
3 The Depot Manager, APSRTC, Yadagirigutta Bus Depot, Nalgonda District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an Order, direction or Writ more particularly one in the nature of Writ of Mandamus declaring the action of the respondent not paying the salary to the petitioner by computing the notional increments from the date of termination till the date of reinstatement (i.e., w.e.f. 17-8-1998 to April 2002) as illegal, arbitrary and unjust and consequently direct the respondents to pay the salary to the petitioner by computing the notional increments from the date of termination till the date of reinstatement (i.e., w.e.f. 17-8-1998 to April 2002)

Counsel for the Petitioner: Mr.G.RAVI MOHAN

Counsel for the Respondents: Mr.V.T.M.PRASAD, Standing Counsel for A.P.S.R.T.C.

The Court at the admission stage made the following:

Order:

The petitioner was appointed as a conductor in the respondents—Corporation in the year 1990. He was issued a charge sheet alleging certain cash and ticket irregularities. Subsequently, an enquiry was conducted and through the proceedings dated 17-8-1998 he was terminated from service. Aggrieved by the said order, the petitioner filed I.D.No.62 of 2000 before the Labour Court-III, Hyderabad. The labour court through its award dated 12-2-2002 directed the respondents—Corporation to reinstate the petitioner with continuity of service, but without back wages. Consequent to the publication of the award, the third respondent reinstated the petitioner into service in April 2002. But, his pay was not fixed by adding the notional increments for the period from the date of termination till the date of reinstatement i.e., from 17-8-1998 to April 2002. Subsequently, the petitioner filed a writ petition covered by W.P.No.6152 of 2003 before this Court for back wages and the same is pending. The grievance of the petitioner is that the respondents did not fix his pay by adding the notional increments despite his representation dated 3-4-2004. He therefore approached this Court through this writ petition to direct the respondents to fix the pay of the petitioner by computing the notional increments from the date of termination till the date of reinstatement.

The award of the lower Court indicates that on reinstatement the petitioner is entitled for continuity of service, without back wages. A Division Bench of this Court in **Regional Manager, APSRTC, Nizamabad v. B. Chander Rao** held that the employee is entitled for notional increments, in pursuance of the order of the labour court extending the benefit of continuity of service. The Division Bench while rendering the above decision distinguished a decision of the Supreme Court in **APSRTC & another v. S. Narasa Goud** wherein the Supreme Court held that the employee is not entitled for increments for the period of his unauthorized absence unless the same is regularized. The Division Bench relied on another judgment of the Supreme Court in **Devendra Pratap Narain Rai Sharma v. State of U.P.** and gave the above direction.

In the light of the judgment of the Division Bench in **B.Chander Rao** (1 supra) and in the light of the order of the labour court extending the benefit of the continuity of service, the petitioner is entitled to get the notional increments fixed for the purpose of fixation of his pay for the period from the date of termination till the date of reinstatement.

In the result, the writ petition is allowed. The respondents are directed to fix the pay of the petitioner by working out the notional increments of the petitioner for the period from the date of termination till the date of reinstatement within eight weeks from the date of receipt of this order.

_____

(Dr.G. Yethirajulu, J)

16th September 2004

svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, The Chief Justice on this Thursday, the Sixteenth day of September Two thousand and four

To

1. The Regional Manager, APSRTC, Nalgonda Region, Nalgonda District
2. The Depot Manager, APSRTC, Devarakonda Bus Depot, Nalgonda District.
3. The Depot Manager, APSRTC, Yadagirigutta Bus Depot, Nalgonda District
4. 2 CCs to
5. 2 CD copies